

Clerk's Office
Filed Date: 4/11/23

U.S. DISTRICT COURT
EASTERN DISTRICT OF
NEW YORK
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DARIN POOLE,

Plaintiff,

v.

NEW YORK CITY, BROOKLYN
NORTH TASK FORCE, NEW YORK STATE
and NEW YORK CITY POLICE DEPARTMENT,

Defendants.

NOT FOR PUBLICATION

ORDER

18-CV-7181 (MKB)

MARGO K. BRODIE, United States District Judge:

Plaintiff Darin Poole, proceeding *pro se*, commenced the above-captioned action on December 13, 2018, against Defendants New York City, Brooklyn North Task Force, New York State, and the New York City Police Department. (Compl., Docket Entry No. 1.) On February 13, 2019, Plaintiff filed an Amended Complaint. (Am. Compl., Docket Entry No. 4.) After dismissing the Amended Complaint and giving Plaintiff several opportunities to file a second amended complaint, Plaintiff has failed to do so and has also failed to respond to an Order to Show Cause, directing him to show cause, by February 17, 2023, as to why the case should not be dismissed for failure to follow a court order. The Court therefore dismisses the action and directs the Clerk of Court to close this case.

I. Discussion

By Memorandum and Order dated July 29, 2019, the Court granted Plaintiff's request to proceed *in forma pauperis*, dismissed the Amended Complaint, and gave Plaintiff leave to file a second amended complaint within thirty days. (July 2019 Decision, Docket Entry No. 6.) The

Court warned Plaintiff that if he failed to file a second amended complaint within thirty days, the Court would dismiss the action. (*Id.* at 7.) Plaintiff did not file a second amended complaint within thirty days, and by Memorandum and Order dated September 6, 2019 (the “September 2019 Decision”), the Court dismissed the action. (Sept. 2019 Decision, Docket Entry No. 7.)

By letter dated September 21, 2019 (the “September Letter”), Plaintiff informed the Court that he had not received the September 2019 Decision and asked the Court to reopen the case. (Letter dated Sept. 21, 2019, Docket Entry No. 9.) By Order dated September 26, 2019, the Court reopened the action and directed Plaintiff to file a second amended complaint by October 28, 2019. (Order dated Sept. 26, 2019.) By Order dated November 25, 2019, the Court again directed Plaintiff to file a second amended complaint, this time by December 27, 2019. (Order dated Nov. 25, 2019.)

By Memorandum and Order dated January 9, 2020, the Court dismissed the action. (Jan. 2020 Decision, Docket Entry No. 10.) On February 18, 2020, Plaintiff filed a second motion to reopen the case, again on the basis that he did not receive the order to file a second amended complaint. (Letter dated Feb. 28, 2020, Docket Entry No. 12). On February 20, 2020, the Court granted Plaintiff’s motion and directed Plaintiff to file a second amended complaint by March 23, 2020. (Order dated February 20, 2020). Plaintiff failed to file a second amended complaint.

On February 6, 2023, Magistrate Judge Ramon E. Reyes, Jr. issued an Order to Show Cause, directing Plaintiff to show cause, by February 17, 2023, as to why the case should not be dismissed for failure to follow a court order, failure to serve Defendants and failure to prosecute. (Order to Show Cause dated Feb. 6, 2023.) To date, Plaintiff has not filed a second amended complaint, or otherwise responded to court orders.

II. Conclusion

For the reasons set forth above, the Court dismisses this action pursuant to 28 U.S.C. § 1915(e)(2)(B). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962). The Clerk of Court is directed to enter judgment and close this case.

Dated: April 11, 2023
Brooklyn, New York

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge